

Attorney Docket No.: J3681(C)
Serial No.: 10/521,983
Filed: August 17, 2005
Confirmation No.: 1483

REMARKS

Pursuant to the Office Action of March 19, 2010, claims 1-10 and 12-15 stand rejected under 35 USC 103(a) over Hall (US 5,840,289) in view of Carmody (US 6,468,512). This rejection is respectfully traversed.

Applicants refer to and incorporate herein their comments from prior responses and the Brief of November 20, 2009 regarding Hall.

Carmody is directed to water-in-oil compositions in the form of antiperspirant/deodorant gels. The compositions **are characterized as having a substantial amount of water, i.e., about 25% to about 45% of the total weight of the composition.** See column 3, lines 39 to 42. In each of the exemplified compositions, the antiperspirant active **is solubilised in the aqueous phase** of the composition. Carmody is not in any way directed to the formation of suspension aerosols. **In suspension aerosols the antiperspirant active is not solubilised; rather it remains in particulate form.** Moreover, while silicone oils may be incorporated into the gel compositions of Carmody, the silicone oils are said to provide a gel matrix and bulk for the gel compositions, thickening and softening the gel composition and providing softening and conditioning effects to the skin. See column 3, lines 54 to 61. At column 4, lines 16 to 20 Carmody goes on to disclose that the non-volatile silicone oils that may be incorporated into its gel compositions may have viscosities of from about 5 to about 100,000 centistokes.

There is nothing in Carmody that can be reasonably said to motivate the selection of high viscosity masking oil as a means of further reducing whitening in suspension aerosol compositions that include a milled active. Whether the active is milled or not milled would seemingly be irrelevant to Carmody, as in its gel compositions the active would normally be expected to be solubilised rather than suspended.

Further, Carmody discloses that its silicone oils can have viscosities within a range of broad span. Applicants respectfully note that the subject application includes data **in which silicones having the same refractive index but different viscosities were**

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compared in aerosol suspension formulations that included a milled antiperspirant active. Notwithstanding that the silicones had the same refractive index (i.e., 1.403), the composition that contained both milled active and 30,000cSt (mm^2/s) polydimethyl siloxane had a significant and unexpected reduction in whiteness compared to the composition that contained milled active and 50cSt (mm^2/s) polydimethyl siloxane.

Thus, even if the combination of Carmody and Hall were construed to establish a case of prima facie obviousness (which Applicants do not concede), it is respectfully submitted that the data in the subject application provides a showing of a surprising and unexpected improvement in whiteness reduction that refutes same.

In view of the foregoing, reconsideration and allowance of the subject claims is respectfully requested.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,

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